IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA Nos. : 46 & 44 of 2007

Date of decision: 21.8.2007

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1. L.P.A. No. 46 of 2007

Neeraj Talwar **Appellant**

Versus

State of H.P. and others **Respondents.**

2. L.P.A. No. 44 of 2007

Ramesh Talwar **Appellant**

Versus

State of H.P. and others **Respondents.**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?[1]

For the Appellants: Mr. Dushyant Dadwal, Advocate

For the State :Mr.M.S.Chandel, Advocate General with Mr. R.M.Bisht, Deputy Advocate General.

For the Municipal Council: Mr. A.K.Vashisht, Advocate

Per Deepak Gupta, J. (Oral)

These two Letters Patent Appeals are directed against the judgment of learned Single Judge in CWP Nos. 761 of 2002 and 690 of 2002. The appeals have

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

been filed by father and son and relate to the same unauthorized construction and are being disposed of by a common judgment.

The brief facts necessary for the decision of the appeals are that Neeraj Talwar, son of Ramesh Talwar is alleged to be the owner of the property in question. There was some unauthorized construction being raised during November, 1999. The Municipal Council, Dalhousie, issued notice to Ramesh Talwar, father of Neeraj Talwar to stop the construction. He did not reply to the notice nor did he inform the Municipal Council that he is not the owner of the premises, but it is his son who is the owner of the same. He also did not deem it fit to inform the Municipal Council, Dalhousie that the construction is not being raised by him, but is being raised by the son.

Section 203 of the H.P. Municipal Council Act, 1994 prohibits any person from raising construction without a sanctioned plan. As per the record of Municipal Council, which we have seen today, the staff of Municipal Council, Dalhousie found that it was Sarvshri Ramesh Talwar and Brij Bhushan who were raising the unauthorized construction. Notices were accordingly issued to them.

The demolition order was challenged by Neeraj Talwar before the learned District Judge, Chamba and by his father Ramesh Talwar before the Secretary (Urban Development-cum-Financial Commissioner). Both these authorities had rejected the appeals. The learned District Judge as well as the learned Single Judge have come to a finding of fact that the petitioners were raising unauthorized construction without any valid or sanctioned plan.

The learned Single Judge has dealt with this matter in detail and has held that it is a classical case where the father and son were trying to hoodwink the authorities. Admittedly the appellants have not obtained any sanction to make any construction which was raised despite notices by the Municipal Council, Dalhousie not to raise construction. The learned Single Judge rightly held that the petitioners are not entitled to any relief. We find no merit in these appeals and the same are accordingly dismissed.

(Deepak Gupta), J.

August 21, 2007(K) (V. K. Ahuja), J.